

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL JOSEPH DIFRANCESCO,

Defendant.

CR 8–22–BU–DLC

ORDER

Before the Court is Defendant Michael Joseph DiFrancesco’s Unopposed Motion for Early Termination of Supervision. (Doc. 129.) Mr. DiFrancesco pled guilty to one count of receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2), and, on May 21, 2009, was sentenced to a custodial sentence of 60 months, followed by 10 years of supervised release. (Doc. 45.) Mr. DiFrancesco began his period of supervised release on April 26, 2013. (Doc. 59 at 1.) A report on offender under supervision was issued on March 24, 2021. (Doc. 83.) On July 20, 2021, the Court found Mr. DiFrancesco in violation of his conditions of supervision and sentenced him to 45 days in custody, followed by 48 months of supervised release. (Doc. 99.) On January 24, 2023, a petition for summons for offender under supervision was filed due to Mr. DiFrancesco’s failure to enter and successfully complete a sex offender treatment program and unauthorized

possession of a device that has access to the internet. (Doc. 112). The Court held disposition of the petition in abeyance until May 31, 2023, (Doc. 124), which was later continued until June 8, (Doc. 125), and again until August 15, (Doc. 127). At the final revocation hearing on August 15, the United States moved to dismiss the petition. (Doc. 128.) The Court dismissed the petition and invited Mr. DiFrancesco to move for early termination of his supervised release. (*Id.*) Mr. DiFrancesco now seeks the premature termination of his remaining term of supervised release. The motion is unopposed. (Doc. 129 at 1.)

A court may release a defendant from a previously ordered term of supervision so long as he has completed at least one year of supervised release. 18 U.S.C. § 3583(e)(1). In deciding whether early termination is appropriate, a court is instructed to consider the factors found at 18 U.S.C. § 3553(a). This includes, *inter alia*: (1) “the nature and circumstances of the offense and the history and characteristics of the defendant;” and (2) “the need for the sentence imposed” (a) “to afford adequate deterrence to criminal conduct,” and (b) “to protect the public from further crimes of the defendant.” *Id.* § 3553(a). A court “enjoys discretion to consider a wide range of circumstances when considering whether to grant early termination.” *United States v. Emmett*, 749 F.3d 817, 819 (9th Cir. 2014) (citations omitted). A defendant bears the burden to show that such course of action is justified. *Id.* at 824.

Mr. DiFrancesco has served approximately two years of his 48-month term of supervised release, making him statutorily eligible for early termination of supervision. He has completed his Court-ordered sex offender treatment and has otherwise complied with the terms of his supervision. The Court finds that early termination of supervised release is appropriate at this time.

Accordingly, IT IS ORDERED that the motion (Doc. 129) is GRANTED.

IT IS FURTHER ORDERED that Mr. DiFrancesco's remaining term of supervised release is TERMINATED as of the date of this Order. The Clerk of Court is directed to notify the United States Probation Office for the District of Montana of the making of this Order.

DATED this 23rd day of August, 2023.



Dana L. Christensen, District Judge
United States District Court